

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THE NATIONAL ASSOCIATION FOR THE)	
ADVANCEMENT OF COLORED PEOPLE)	
ERIE UNIT 2262 and CITIZENS)	
FOR PENNSYLVANIA’S FUTURE,)	
)	
Plaintiffs,)	CIVIL ACTION NO. 20-362
)	Judge Susan Paradise Baxter
v.)	
)	
FEDERAL HIGHWAY ADMINISTRATION,)	
and)	
PENNSYLVANIA DEPARTMENT OF,)	
TRANSPORTATION,)	
)	
Defendants.)	

**PENNSYLVANIA DEPARTMENT OF TRANSPORTATION’S CROSS-MOTION FOR
SUMMARY JUDGMENT AND RESPONSE IN OPPOSITION TO PLAINTIFFS’
MOTION FOR SUMMARY JUDGMENT**

Defendant, Commonwealth of Pennsylvania, Department of Transportation (PennDOT) respectfully moves the Court to deny Plaintiffs’ request for summary Judgment and grant summary judgment in favor of Defendant Federal Highway Administration (FHWA) and PennDOT. This litigation is an Administrative Procedure Act challenge to the FHWA decision to approve use of a categorical exclusion for the Bayfront Parkway Central Corridor Improvement Project (Project). The Project qualifies for a categorical exclusion because it will not induce significant impacts to planned growth or land use for the area; does not require the relocation of significant numbers of people; does not have a significant impact on any natural, cultural, recreational, historic or other resource; does not involve significant air, noise, or water quality impacts; does not have significant impacts on travel patterns; and does not otherwise, either individually or cumulatively, have any

significant environmental impacts. 23 CFR § 771.117. This is well documented in the Categorical Exclusion Evaluation prepared for the Project and supported by the administrative record.

For these reasons and those more fully stated in PennDOT's Brief in Support of PennDOT's Cross-Motion for Summary Judgment and in Opposition to Plaintiffs' Motion for Summary Judgment, PennDOT respectfully requests this Honorable Court grant summary judgment in Defendants' favor on all counts in Plaintiffs' complaint.

DATE: November 5, 2021

Respectfully submitted by,

/s/ Neal T. Brofee

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